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Wisconsin State Representative
18th Assembly District

Testimony Before the Assembly Committee on Children and Family Law January 24, 2008 Assembly Bill 572

I want to thank Chairwoman Owens for scheduling Assembly Bill 572 for a public hearing. I would also like to take this opportunity to thank Committee members Representatives Berceau, Albers, and Seidel for cosponsoring this bill. As the author of this bill I greatly appreciate the willingness of the Committee to listen to the testimony you will be hearing today.

Often times the disruption of removing a child from their home is alleviated by placing them with a relative. These arrangements help alleviate some of the fear and anxiety children can experience by this disruption in their lives by making sure they are still surrounded by supportive family and friends that he or she is familiar with while ensuring the safety of the child.

The number of children being placed with relatives has grown substantially in recent years, especially in Milwaukee County where the need for foster homes outpaces the available capacity. Since many of these relative caregivers are not licensed foster parents, they are currently not afforded the same rights in legal proceedings as foster parents. It is critical that we ensure that these caregivers do have the same rights as licensed foster homes.

Under current law, if a child has been placed in a foster home, treatment foster home, or group home for six months or longer, the licensed child welfare agency that placed the child must give the head of the home written notice of intent to remove the child from the home. Furthermore, that agency must state the reasons for the removal. In those cases, the child may not be removed from the home before completion of a hearing before the Department of Health and Family Services or the circuit court to review the removal decision, if a hearing has been requested, or 30 days after receipt of the notice of intent to remove, whichever is later, unless the safety of the child requires removal. Also, under current law, any decision or order issued by an agency that affects the head of a foster home, treatment foster home, or group home or the children involved may be appealed to DHFS under fair hearing procedures.

AB 572 grants to a relative, other than a parent, the same procedural rights relating to notice of intent to remove a child from the home, review of decisions or orders involving the placement and care of the child, and independent child abuse or neglect investigations that are granted a foster parent under current law.

According to the 3rd Quarter Report from the Bureau of Milwaukee Child Welfare just under 30% of child in out-of-home placement were in the care of non-licensed relative Kinship Care providers. We want to ensure that the children in these placements are not in danger of quick removal unless based on safety concerns. In addition we want those relatives caring for these vulnerable children to be given the same right to advocate for the children as a foster parent would have.

I thank the committee for your time and consideration of this matter. I am happy to answer any questions Committee members may have.



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

January 24, 2008

TO: Assembly Committee on Children and Family Law
FROM: Katie Plona, DHFS legislative liaison
RE: Assembly Bill 572

Good morning. I'm Katie Plona, legislative liaison for the Department of Health and Family Services. With me today is Cathy Connolly, who is the legislative and policy consultant for the Division of Children and Family Services. Representative Owens and committee members, thank you for the opportunity to testify on Assembly Bill 572.

AB 572 grants to a court-ordered Kinship Care provider and an unlicensed relative caregiver of a child placed in his or her home under a court order the same procedural rights relating to notice of intent to remove a child from the home, review of the decisions or orders involving the placement and care of the child, appeal of any decisions affecting the relative's household or child, and the right to an independent child abuse or neglect investigation/initial assessment if the relative caregiver is the subject of the investigation.

The Department supports the intent of this bill to expand these requirements to Kinship Care providers and unlicensed relative caregivers with a child placed in their homes.

Wisconsin law is clear that when a child is removed from his or her home, the preferred placement is with relatives of the child.

Research indicates that placement with relatives is generally less traumatic for the child than placement with an unknown foster parent. When children are able to stay connected to their families they experience more placement stability and shorter stays in out-of-home care. In addition, by including the natural support systems, families are provided more lasting supports and children have better long-term outcomes when the child welfare system is no longer involved.

The Department believes that the changes identified above will support the involvement of extended families in the care of their children who cannot remain in the home of their parents.

We are here today to raise a concern the Department has with one provision of the bill, and we would like to work with the bill's authors to discuss this provision.

The Department is requesting that the provision that requires counties and the Bureau of Milwaukee Child Welfare to conduct an independent investigation of any child maltreatment allegations against unlicensed relative caregivers be removed. This is section 8 of the bill.

Under current law, agencies must make a discretionary decision about whether there is a substantial probability that the agency could not conduct an unbiased investigation and that therefore another agency must conduct the investigation. This is based on the relationship of the agency and the relative caregiver who is the subject of the report of maltreatment.

Foster parents and treatment foster parents are officially sanctioned (licensed) by the agency. For unlicensed relatives and Kinship providers there is no such sanction. Instead, a criminal background check and often less subsequent contact occur, creating a different relationship between the agency and the unlicensed relative caregiver.

For these reasons, the Department proposes that Section 8 be removed from AB 572.

Thank you again for the opportunity to testify regarding AB 572. Cathy and I are available to answer any questions you may have about the change DHFS has proposed.

submitted by
Sue Connell

Love Late in Life

A rising percentage of children are being raised by grandparents. Why is it happening and what's the impact on families?

by Mary Van de Kamp Nohl

| Saturday 7/1/2006

✉ EMAIL TO A FRIEND

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Photo by Loren Santow

Karen Ellenbecker didn't plan on becoming a mother again. She'd raised three children as a single mom, and now they were out of the nest. At age 50, she was looking forward to the pleasures for which she'd never had time: casual ladies' lunches, shopping trips to Chicago, travel.

To celebrate her new life, she redecorated her house with white carpeting and furnishings that didn't need to be kid-proof. On Fri-day, the final touches went in. On Saturday and Sunday, she basked in their glow.

And on Monday, the police woke her in the middle of the night, and she rescued her granddaughters, Autumn, 2, and Taelor, 3, from the crack house where their addict mother had taken them. The girls' father, Ellenbecker's son, who'd never married their mother, wasn't an option. A convicted drug dealer, he was in prison.

And so Ellenbecker's dream life disappeared. Back in the world of Lil' Tykes and sippy cups, toting a diaper bag and wearing a velour jogging suit, a grandmotherly giveaway in a sea of young mothers in tight jeans, she enrolled the girls in daycare. "It's hard to see your children struggle but even harder to see your grandchildren suffer," she says.

Ellenbecker became part of a growing American -phenomenon. During the 1990s, Census Bureau statistics show, the -number of grand-parent-headed households in the United States increased by 30 percent, rising to 2.4 million. The growth was about the same in Wisconsin, where nearly 24,000 households are now headed by grandparents raising children, including some 7,000 in Milwaukee.

One in 10 grandparents will find themselves raising a grandchild at some point, typically for two years or more, according to the Grandparents Raising Grandchildren Partnership of Wisconsin, a group established in 1998 to bring awareness to the issue.

If anything, official numbers understate the trend. While Ellenbecker went to court to become the girls' legal guardian, countless grandparents do not, says



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Mary Dobbs, a former Milwaukee Public Schools social worker. Dobbs encountered so many MPS students being raised by grandparents that when she retired four years ago, she founded a support group on the city's North Side called Second Time Around.

"We have grandparents who say they are only taking care of the kids 'temporarily,' yet they've been doing it for 13 years. It's difficult for grandparents to give up hope that their child, the parent, will get their life in order and take the kids back," explains Dobbs.

The trend crosses all ethnic, geographic and economic lines. The majority – 61 percent – of Wisconsin grandparents raising their grandchildren are white, and most live in suburban or rural areas. Ellenbecker lives on Pewaukee Lake, and the parents she has re-placed grew up in the suburbs.

The number of "grandfamilies" is actually rising faster in white, non-urban areas, driven, in part, by the methamphetamine epidemic, a highly addictive "woman's" drug (often used initially for weight control) that often precipitates severe child neglect. Although a problem in northwestern Wisconsin, the drug has yet to seriously hit metro Milwaukee, say local sources. When it does, the numbers of grandfamilies will soar, predicts Mary Brintnall-Peterson, a University of Wisconsin-Extension expert on grandparent caregivers.

By one estimate, 80 percent of grandparent-headed households are the result of drug or alcohol abuse involving the parents. Parental incarceration, mental or physical illness, family violence, poverty, death and teenage motherhood also contribute to the problem.

The grandfamily boom is also related to the incredible growth in single-parent families. If something happens to one parent, there's no second one to take over, says Susan Conwell, a Harvard-trained attorney who runs Kids Matter Inc., a local nonprofit that counsels grandparents. Nationally, one-third of all children are now born to single women, but the rate is 60 percent in Milwaukee. The city's second-place ranking nationally for teen births helps drive this statistic.

Grandparents raising children have become so common they're now enshrined in popular culture. Three of the Sunday comics – "Grand Avenue," "Boondocks" and "Pickles" – feature kids who are or have been raised by grandparents. Radio shows like "Sound Money" debate whether grandparents should adopt their grandchildren.

Yet the country hasn't begun to catch up to the problem or provide overburdened grandparents with resources or recognition. "Society gives them so little support," says former Milwaukee County Children's Court Chief Judge Christopher Foley. "It's really an abdication of responsibility."

The stories of some of these grandparents suggest the unique challenges these

new families face.

What Happens if I Die?

The night terrors began immediately. Autumn and Taelor would awaken screaming in the middle of the night. Their grandmother would hold and rock them.

"I couldn't get them to stop," says Ellenbecker. "It took a long time for them to sleep through the night and not cling to me." She could only guess what had happened to the girls in the drug houses. Often, Ellenbecker would go to work exhausted.

The girls' mother, Michelyn, now 34, had conceived children with three different fathers. Child welfare authorities had removed her oldest daughter, now 16, giving full custody to the girl's father. Michelyn gave up her parental rights to Autumn and Taelor, hoping to get her life in order and keep her youngest, a baby boy. But she lost custody of that child, too, and he was put up for adoption.

Waukesha Attorney Stephen W. Hayes, who trains other attorneys to handle such problems, blames the "drug culture" for creating young parents who can be cruelly cavalier toward their children. "It can be as simple as a mother with a new boyfriend who doesn't want someone else's kid or a parent who merely wants a change of scenery," he notes.

For several years after the Ellenbecker girls moved in with their grandma, they saw their mother only once or twice a year – when she got involved in a drug and alcohol treatment program. Then she'd drop out and disappear. Through the majority of their lives, there were no visits at all. The girls would cry and beg to see her, but there was nothing Ellenbecker could do. She'd tell them their pillows were like clouds that would carry them off to visit mom in their dreams.

The girls were afraid to make friends, afraid to get close to a sitter, afraid their grandmother would die. "You don't know what's going on inside of them, and they act out," says Ellenbecker.

Eating and sleeping problems, fearfulness, depression and delays in development are common among children who end up in their grandparent's care. Many were born with fetal alcohol syndrome or tested positive for cocaine. One 1994 study found that 30 percent of grandparent-raised children had learning disabilities and/or mental impairment; more than 60 percent repeated at least one grade in school.

Ellenbecker established a daily schedule and regular routines. For the first time, Autumn and Taelor had predictable lives and began to do well. They'd still say,

“‘Nana, tell me why I live with you,’” Ellenbecker recalls, “and I’d say, the judge said I need to keep you safe, and you weren’t safe. They like that answer. My job is to keep you safe.”

This sense of trust is critical for children, says psychotherapist Jill T. Butterfield, who has worked with the Ellenbecker girls. “Consistency is huge. It gives them a sense of emotional safety.”

In many ways, the Ellenbeckers represent a best-case -scenario for children who’ve “lost” their parents. Autumn and Taelor live with their grandmother and her husband of three years, Bob Stoltz, in a new home on Pewaukee Lake where the girls have a play-room – with built-in puppet theater and playhouse – most kids can only dream about. The girls have a life filled with choir practice and sailing lessons and a supportive aunt (Ellenbecker’s daughter, Julie) and her husband and kids living just up the hill.

Ellenbecker is among the 42 percent of parenting grandparents who are still working. She owns a 13-employee investment firm, Ellenbecker Investment Group Inc., which manages more than \$140 million. But that hasn’t stopped her from being a good mother. “I wish all my grandparents were as involved as Karen is,” says Butterfield.

In 2005, Autumn and Taelor’s mother reappeared. She promised the kids she’d come for Christmas with “all kinds of presents” but never showed up – not for three months. They wondered what they did wrong that made her leave, says Ellenbecker. “That was -really hard for them.”

Then suddenly last fall, when the girls visited their father, who had been furloughed from prison, there she was, sitting on his porch in the Fifth Ward. She brushed the girls’ hair and made them feel loved, insisting they call her “mommy,” Ellenbecker says. The girls refused.

Their contact with their father had been inconsistent, too. He’d gotten out of prison and has since been in and out of jail for violating probation by drinking and by drag racing Downtown. He lives more like a college kid than a responsible 35-year-old parent, says Ellenbecker.

Grandparents deal with some of the same emotions as the grandchildren they raise: anger, guilt, embarrassment, divided loyalties and attachment issues. “Sure, it takes money, time and energy to raise these kids,” says Ellenbecker. “But the emotional exhaustion – that comes from your own child.”

She can’t enjoy playing the doting grandmother because she’s had to be the girls’ parent, says Ellenbecker. The situation is strangely similar to that of a divorced couple, where she’s the custodial parent who provides daily necessities, while her son, the girls’ father, showers them with gifts like designer jeans.

But in grandfamilies where the child's parent also lives in the household, it can be even more difficult. "Then you provide every-thing, but you have absolutely no say, no control," Ellenbecker notes.

While Autumn and Taelor were seeing their parents more often last fall, their behavior deteriorated at school. Ellenbecker took them to the Lakefront Wellness Center where Butterfield, a board-certified art therapist, asked them to draw a picture of their family.

Autumn and Taelor, then 8 and 9, drew a family home flying in space, with no visible means of entry; handless, powerless self-portraits floating in the air instead of anchored on the ground; and a fantasy family, including their parents with hands that looked exaggerated and menacing, a stepbrother they hadn't seen since he was adopted six years earlier and an older step-sister they hadn't seen in a year.

"They were trying to figure out who their real family was," says Butterfield, explaining that each time a parent comes and goes, the girls feel rejection and abandonment. They go through the stages of grief, she says, "but these feelings don't get addressed, and mom leaves again." The resulting emotions are hard for children to handle, she says.

After six months of counseling, the girls' drawings began to reflect their realistic family, Butterfield says, centered around their grandmother and with their feet and house firmly planted on the ground.

Still, the girls are relatively lucky. By the time many children are placed with their grandparents, Butterfield says, it's too late: "There's already such rage and anger. Sure, the grandparents love them, but love alone can't cure a kid who's already so damaged."

Now about to turn 57, Ellenbecker is at the median age for grandparents raising their grandchildren. "There are some nights," she says, "I lie awake and I wonder, 'What if I die?'"

Even if she named a guardian to replace her, it would be irrelevant under Wisconsin law. As long as the girls have a living parent "willing and capable of exercising legal guardianship," that parent gets custody. A judge decides what "capable" means. Legally, children have no say in the matter until they're 12.

But whatever her worries, Ellenbecker doesn't regret becoming a mother again. "There's a part of me that sees this as a second chance," she muses. Still, she admits, "It's bittersweet."

I'll Save Her Kids, Not My Daughter

Randi Newman's oldest child, Melissa, now 31, had been a challenge from the start. At 9 months, "Melissa wasn't doing any of things the books say babies are supposed to do," remembers Newman. "She was bouncing off the walls." Doctors put the baby on tranquilizers.

Newman had a second child, a son, and everything was fine, but Melissa was in and out of treatment facilities. She dropped out of high school, set up housekeeping with a boyfriend and eventually had two daughters, seven years apart.

When the boyfriend took off with the woman upstairs, Newman says Melissa stopped doing anything around her house. "I tried to teach her how to be a mom," says Newman. But it was to no avail.

In June 2005, Newman was called by one of Melissa's West Allis neighbors, who said the police were there. It was 1:30 a.m. Newman's granddaughters, ages 4 and 11, had been left alone in a filthy flat. They'd missed 26 days of school. The oldest granddaughter, Tiffani, explained that, at her mother's request, she had taken nude photographs of her mother, who then posted them on the Internet. Soon, strange men were appearing at the house at all hours.

When Newman arrived, Tiffani begged, "Grandma, please help us. I'm afraid one of these guys is going to stab us in the night."

The district attorney booked Melissa for child neglect and exposing a minor to harmful materials, and Randi and Dave Newman took the girls home.

Grandparents who end up raising their grandchildren often second-guess themselves looking for what they did wrong, and Newman is no exception. She eventually came to suspect the drug she'd taken to ease her morning sickness while she was pregnant with Melissa. Bendectin was later the subject of a class action lawsuit and \$120 million settlement paid to plaintiffs who claimed it caused birth defects. Newman wasn't involved in the case but believes the brain abnormalities others blamed on the drug might explain her daughter's psychological problems.

Believing Melissa needed help more than punishment, the DA reduced the charges to disorderly conduct. The judge ordered her to have no unsupervised contact with her daughters, take -parenting classes, get her GED and maintain a home without being evicted. She got a part-time job at Taco Bell and attended one GED and one parenting class. Then she quit meeting with her probation officer.

The Newmans, both 52, had their own problems. Dave's job was exported to

Mexico. Randi ran a cleaning business, Royal Kare Home Cleaning, but with Dave out of work and back in college and a couple of kids to support, they sold their Northwest Side condo and moved into a \$750-a-month, heat-included, two-bedroom apartment plus den in what Randi calls "the slums of Thiensville."

Forty-six percent of parenting grandparents live on fixed incomes; 26 percent on \$15,000 a year or less, says UW's Brintnall-Peterson. "Many are using retirement benefits, taking second jobs, going back to work or using other financial resources to manage the additional cost of caring for an unexpected child."

Because the girls had been taken into custody in Milwaukee County and because the Bureau of Milwaukee Child Welfare had previously offered supportive services to Melissa, Newman called the bureau for help. They declined, she says.

"They should have taken the kids to court, gotten us custody and helped find healthcare and financial help, but they said, 'The kids are in a safe situation. We don't need to be involved,'" Newman recalls. "I said, 'How do you know? I could have them shackled in the basement,...' but never once did they send anyone out."

The Newmans also tried, unsuccessfully, to get help from Ozaukee County. Both Milwaukee and Ozaukee officials cite confidentiality in declining to discuss the case and suggest that the other county needed to take more initiative in this case. Unable to find help from any social service agency, Newman enrolled the kids in the Mequon-Thiensville schools without the required proof of guardianship.

The Newmans couldn't afford an attorney, but one of Randi's cleaning clients, an attorney, offered free legal advice. A client's neighbor, a retired social worker, helped fill out the papers so Newman could go to probate court and get guardianship. Another contact told her about Conwell's group, Kids Matter, and she found advice there, too.

"I had access through my cleaning contacts that most people don't," says Newman. "But what about the poor 80-year-old grandmothers in this situation? When the system that's supposed to protect these kids doesn't even show up, something's very wrong."

Newman's experience is all too common, says Conwell. "We drop off the kids with the grandparent, and they're off the bureau's hands – but grandma doesn't have any services either. You have to go through the back door to try to get services."

The Newmans moved the girls into their guest room and started spending weekends having tea at the American Girls Place in Chicago and burgers at Culver's. They set up a routine: "8 a.m., brush your teeth... 8 p.m., shower. "The girls never had a bedtime story before," Newman marvels. "They keep asking,

‘Why are you doing these nice things for us?’”

Alexis, now 5, hadn’t learned to walk until she was 2 because her mother kept her in a carseat in front of the TV; the Newmans bought cutting books, beads and printing books to develop her small motor skills.

Tiffani’s grades continue to go up and down, “depending on what’s going on with her parents. In some ways, she’s 11 years be-hind,” her grandmother says.

The girl’s mother promised to visit them on Easter, then stood them up. Feeling rejected, Tiffani is in therapy now, “trying to figure out how do you form a life without your parents,” says Newman.

Melissa says she wants her daughters back, but Newman doubts her daughter will ever turn her life around. “As much as I’d like to see my daughter succeed, I hope she doesn’t, because these girls really have a chance at life now,” she says.

Whatever her guilt over what happened to Melissa, Randi Newman has now decided that her primary love must go to her grandchil-dren. “If we were all tossed overboard and my daughter can swim but doesn’t,” she says, “I’m going to save these kids. Not her.”

She Beat Her Fists Against Me

Cornetta Smith was an alcoholic with a history of child neglect. In 1992, she passed out on top of her 16-month-old baby. Smith told police she never heard or felt her son struggle as he slowly suffocated.

The child’s death was ruled an accident.

The State of Wisconsin has given Smith 20 years to get her life in order.

Taxpayers have sent her to scores of alcohol and drug treat-ment programs, to parenting classes, a nurturing program, individual therapy, family counseling and anger management sessions.

Court copies of Bureau of Milwaukee Child Welfare records describe the 43-year-old woman’s alcohol and drug addiction and chronic mental health issues. Smith has a history of “relapse, inability and unwillingness to properly care for her children,” records state.

While the state waited for Smith to reform, her children have lived horrific lives. Authorities intervened after finding the children alone, dirty and neglected, in a filthy house with broken windows, roaches all over the kitchen, beer cans everywhere and food and dirty clothing covering the floors.

Court records show a woman with a history of blaming others for her problems. She threatened to kill herself and told her children they were the cause. And Smith told police she was beaten by the father of one of her children, when a security camera showed she had assaulted the dad.

Records show that Smith would often get drunk or high, trash her flat and get evicted, and the children would go to yet another foster home. Finally, without ever finding a permanent home, the three oldest children reached adulthood. Today, one child is in prison for felony burglary, a second has a criminal record of battery, criminal trespass and drug possession, and a third has severe mental problems.

In most states, Smith's parental rights would have been terminated long ago. Attorney Hayes, a member of several study groups examining how states handle custody issues, says that over the past 20 years, many have changed their laws to reflect what science has learned about the importance of continuity and stability in a child's development.

"Most states have a much earlier concern for the best interests of the child. But here, if a jury concludes a parent didn't abandon a child or they made an effort, however slight, you never even get to the child's best interests," Hayes says.

At Smith's instigation, the Bureau of Child Welfare recently removed her fifth child, 6-year-old Armani, from the only real home she's ever known and from her great-grandparents, Viola and Isom White. How could it happen?

Hayes, who isn't involved in this case, says it's common for a parent who wants money or something else from the grandparents to retaliate or try leveraging the grandparents by making false accusations of child abuse. "There's so much concern about abuse that the people getting those calls don't use reasonable judgment," says Hayes.

Smith did indeed make a laundry list of allegations against the Whites to child welfare officials. Great-grandmother Viola, who denies the accusations, says Smith pressured the Whites to let her live in a second home they own. The Whites, knowing her record of evictions and destruction of property, refused.

Standing against Smith's claims is a long history of exemplary foster parenting by the Whites, a record the Bureau of Child Welfare could easily check. For 25 years, Viola, a former practical nurse, was one of its stars, a Foster Parent of the Year nominee. The Whites raised 49 foster children, including many who were severely troubled when they arrived. With the Whites' love and guidance, most did well.

Viola and Isom, a retired long-haul trucker, married 42 years ago. It was Isom's second marriage. Smith is a granddaughter from his first marriage and the

daughter of an alcoholic mother who died from complications of diabetes at age 54. Smith became a second-generation alcoholic.

Given this history of alcohol and drug abuse, child welfare officials placed Armani with her great-grandparents when she was just 3 days old. Smith had shown symptoms of "post-acute withdrawal from drugs or alcohol" in the hospital, and the baby may have been affected. Involuntary tremors racked baby Armani's body for eight months, Viola says, and she cried almost continuously for five. Afraid to go to sleep because the baby was constantly crying and throwing up, Viola often stayed awake for much of the night.

In October 2001, when Armani was 18 months old, the bureau reunited Smith with her children, and the family briefly disappeared from the records. Viola says Smith and the family were soon evicted from their home and spent five months living in a condemned property with the ceiling teetering on the brink of collapse.

Court records resume the tale then, showing that 10 months after Armani returned home, Smith came home intoxicated one night. Screaming and cursing, she woke the children and dumped a flower pot over the toddler's head. She rubbed dirt into Armani's face, and when her older daughter tried to clean Armani up, Smith hit the two of them with a bleach-soaked mop. Smith went to jail for child abuse and neglect.

Armani's guardian ad litem is Deanna Weiss, who'd been appointed to look out for the girl's best interests when the child was just 1. Weiss and the Bureau of Child Welfare could have moved to terminate Smith's rights to Armani. But Smith said she still wanted the child.

She was no longer interested in her other kids because the pressure of raising teens was "too much to handle," she told the bureau. One son said he was afraid to live with his mother because she had threatened to slash his throat. The other son and daughter said they preferred their foster homes.

Smith's parental rights over Armani were not revoked, but the child was returned to her great-grandparents. She had regressed, records show. Armani barely spoke, acted out, threw tantrums and hit people. A psychotherapist diagnosed her with post traumatic stress disorder from the ordeal with her drunken mother.

The Whites doted on Armani. She had frilly little-girl clothes and a swimming pool in the backyard. They drove her to her speech therapist and psychotherapist and enrolled her in an early-childhood program at Hawthorne Elementary School, not far from the quiet neighborhood where they lived. Because they couldn't walk long distances, the elderly Whites even hired a social worker neighbor to take Armani to the zoo.

Before long, Armani's teachers and therapists were describing a bright, pleasant

little girl who was thriving. Armani had bonded with her great-grandparents. Her psychotherapist wrote that they'd become her "psychological parents." She called them "Mama" and "Daddy."

A national study found that 29 percent of grandparents raising their grandchildren were age 60 or older in 2003; 8 percent were over 70, like the Whites, who are 75 and 81 years old. This issue would arise when, in June 2004, the couple went to court to become legal guardians of Armani, then 4 years old.

Armani's guardian ad litem and the bureau social worker approved. But given the Whites' ages, Judge Michael Malmstadt wanted a standby guardian appointed. The Whites suggested two family members who were close to Armani and willing to raise her if they couldn't. But Smith vetoed both. The guardianship went no further.

Meanwhile, Armani's visits with her mother had deteriorated after Smith began drinking again. On one overnight visit, -Armani was sexually assaulted, according to bureau records. Smith claimed not to have heard her daughter's screams.

The court ordered Smith to have only supervised visits with -Armani, but they went poorly. According to her therapist, Armani feared being hurt or snatched by Smith and would complain about stomach pains and memories of being "whooped" by her mother.

After the visits with mom, Armani would regress again, wet her pants and act up: She'd jump on the table and punch those around her.

Smith told the therapist providing court-ordered family therapy that the 5-year-old needed to change. If they lacked a mother-daughter bond, it was Armani's fault, not hers. In an interview with Milwaukee Magazine, Smith accused the therapist and the Whites of "brainwashing" Armani against her.

Meanwhile, Armani's father, Robert James, 48, says Smith "poisoned" Armani's social workers against him, telling them he was an alcoholic and an addict. James, who was working two full-time jobs, took time off to take tests proving he wasn't an alcoholic, records show.

James was interested in getting custody of Armani, but the bureau wanted him to take a parenting class. James, who says he "raised six step-kids, and all of them went to school and got good jobs," bristled at the suggestion. He was never good in any kind of classes himself, he says. But now he says, "I wish I took that stupid parenting class.... I want my baby home with me. Armani's a smart little girl, and I love her very much."

Conwell and Kids Matter got involved in the case when Viola called the agency for help. Conwell says Smith also attacked the reputation of Phyllis Eisenberg, the

therapist who saw Armani for 46 sessions over two years. Eisenberg, a registered nurse as well as an experienced psychotherapist, is the widow of the late Marquette University Law School dean Howard Eisenberg and a respected member of the Lieutenant Governor's Task Force on Women and Depression in Wisconsin. Yet last fall, the bureau removed her as Armani's therapist.

According to Conwell, after Eisenberg suggested that it was in Armani's best interest to terminate visits with her mother, Smith accused Eisenberg of getting too close to the child. Not long afterward, the bureau pulled Eisenberg off the case "without ever investigating whether Smith's allegations were true," Conwell claims.

When Eisenberg wrote a letter to Judge Malmstadt protesting the bureau's handling of Armani's case, Conwell says the bureau threatened Eisenberg's license. (Eisenberg refused comment; bureau officials declined to answer questions, citing the need for confidentiality.)

Court records show that Smith has a history of showing up at her other children's foster homes, drunk and on drugs, swearing and threatening. According to the Whites, she threw a rocker through their window. Another time, she tore up Viola's Foster Mother of the Year certificate. Trying to maintain a relationship with Smith, the Whites refused to press charges. For three years, they handled her invasions by calling Armani's social worker, Brittany Zunker. Zunker would warn Smith not to persist or she'd lose her visiting privileges with Armani.

Zunker adds that she investigated Smith's frequent accusations against the Whites and found no basis for them. "The Whites just loved Armani and wanted the best for her," she says.

But in the summer of 2004, Zunker left for a social worker job in Green Bay. "I've often worried how Armani is doing," she says.

Last winter, when Viola called, there was yet another social worker, the second in a year, and she soon decided to remove Armani from her home with the Whites.

Represented by an attorney from Kids Matter and with the backing of guardian ad litem Weiss, the Whites objected. Reserve Judge Russell Stamper decided the bureau hadn't given written notice and failed to give a reason for a move. The Whites say the new social worker still called, on four different days, telling Viola they were coming to get Armani, but no one ever showed up. It "terrorized" the family, says Conwell, adding that the calls look retaliatory after the bureau's loss in court.

Meanwhile, the new worker became a fresh ear for Smith's allegations against the Whites, including a claim that they had exposed Armani to Internet pornography. Had anyone bothered to check, they would have discovered that the Whites don't

even own a computer.

"Yet in the state's official child welfare records, the Whites were labeled child pornographers," says Conwell. (The bureau refused to grant Milwaukee Magazine access to its records, claiming confidentiality.) "It's very distressing when good people provide years of service to a child only to be treated as yesterday's trash."

The bureau decided to find a permanent placement for Armani with a distant relative she barely knew but one favored by Smith. Viola called the supervisor of Armani's social worker to protest. According to Viola, the supervisor said the bureau had decided to move Armani because "we're old and they didn't want to wait for an emergency."

Viola uses a cane outside and a wheelchair at home because of a knee problem, but she was doing that when the bureau first sent Armani to live with her. "My health is the same now as it was then," she says. The Whites acknowledge their age and are willing to make arrangements for Armani's future if they can no longer care for her. They just want her to feel safe and loved.

Conwell says she and the Whites pleaded with the bureau to allow Armani to have some visits with the new caregiver before she was moved. "Heck, humane societies require people who want to adopt a pet to do that before they take a dog home. We simply asked that Armani be given the same courtesy."

But the bureau would not relent. When Viola told Armani she was being taken away, "she cried and beat her fists against me," says Viola, tears welling.

The Whites are religious people, and "The 700 Club" was on the TV. A woman was saying, "We're going to pray for people with a need," Viola remembers. "And Armani said, 'Let's go to the TV and pray that I make it,' and we did. She said it made her feel better. When the worker came, it was like a miracle. She went out and we loaded that car with all her stuff."

The Whites watched the car drive off, with Armani's bicycle and pedal car still on the porch because there had been no room for them. When they called the social worker later to ask whether they could bring Armani some new clothes they'd bought her, they were told to leave the bag on the porch at her new foster home. They drove around the block several times hoping, in vain, that they'd see Armani.

Weiss says the bureau has to prove a subsequent placement is better for the child. But Conwell says the new foster mother is "a 25-year-old unwed mother who doesn't even have her own place and still lives with mom." Armani, she adds, "already had a mom and a dad. They're older, but they were able to give Armani a wealth of care and love, but now she's deprived of that."

In early May, the Whites still hadn't seen Armani even though Judge -Stamper ordered visitation weeks earlier. Armani called once, but when she began crying, Viola says, a voice came on the line and said, "She can't talk to you now."

In their 1998 book, *The Best Interests of the Child*, authors Albert J. Solnit, Anna Freud and Joseph Goldstein write that breaking a child's attachment to their psychological parents can cause behavior that is disruptive in school and that courts label "dissocial, delinquent and even criminal." As adults, children who suffer such disruptions of continuity may "treat their children as they were treated, continuing a cycle costly for both a new generation and society itself."

Conwell worries that this is what will happen to Armani. But Weiss, who -earlier opposed moving the child, now seems resigned to it. "I believe in the state constitution, and it protects the rights of parents," she says.

The Kids Just Wear Grandma Out

On a random day last spring, Chief Judge Tom Donegan's Children's Court calendar included three delinquency cases involving teenage boys raised by their grandmothers. In two cases, the grandparent wanted the guardianship reversed. In one, grandma was raising the seven children of her deceased daughter and at least four different fathers. The oldest, 16, was "out of control," she said.

"Luckily in this case," says Donegan, "the father was back in the picture and willing to take the kid."

There's no official count, but judges say they've seen a significant increase in grandparents who are giving up their grandkids and returning them to the courts and child protective services. "The kids just wear grandma out," says Donegan.

Nationally, one-fourth of grandparent guardians are age 65 or older. In Milwaukee County, the bureau has no official age guidelines for placing kids with grandparents. Donegan complains that judges see too many adoptions where grandparents in their late 70s hobble into court barely able to walk. Ideally, he says, the bureau should always have a back-up guardian.

But even then, there's no way to know how committed these back-up guardians are, says Donegan. "So you approve the adoption with a hope and a prayer that the grandparent will still be there when the kid turns 18."

It's hard to make a blanket rule that a certain age is too old. Group moderator Dobbs points to Milwaukee grandparents in their late 70s who have done a wonderful job taking over as parents. Conwell looks at Viola and Isom White as guardians who might be old but surely offer a safer home for Armani than with her mother.

"They deserve an apology," she says. "And Armani deserves to be treated like a human being."

Conwell's agency will represent the Whites at court as they ask to be made legal guardians with a stand-by guardian. Right now, she says, "It looks like they've put Armani in an accelerated therapeutic reunification program with mom."

Six weeks passed before the Whites saw Armani again. When they did, at a supervised visit with the child's new psychotherapist, they almost didn't recognize her. "They'd cut her hair and her arms and face were so skinny and her skin seemed darker," says Viola.

Isom and Viola asked Armani how she was doing. Armani tried to tell them she'd been sick, but the therapist cut her off and said, "Armani, quit lying" and "What did I tell you?" says Viola. Then Armani wouldn't talk anymore.

Instead, she ran to a blackboard, and in her made-up scribble writing, the kind - Viola always pretended she could read when they were playing, Armani wrote a message to her mama and daddy. Only this time, it wasn't play, and mama couldn't find a way to turn Armani's scribble into words. And it broke Viola's heart.

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